

TITLE 329 SOLID WASTE MANAGEMENT BOARD

Rule Proposed for Final Adoption with IDEM's Suggested Changes Incorporated LSA Document #05-250

DIGEST

Adds 329 IAC 11.5 to establish a program to remove mercury switches from end-of-life vehicles as required by IC 13-20-17.7 (P.L. 170-2006). Effective 30 days after filing with the Publisher.

HISTORY

First Notice of Comment Period: October 1, 2005, Indiana Register (29 IR 221).

Continuation of First Notice of Comment Period: May 1, 2006, Indiana Register (29 IR 2696).

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329 IAC 11.5

SECTION 1. 329 IAC 11.5 IS ADDED TO READ AS FOLLOWS:

ARTICLE 11.5. MERCURY SWITCHES

Rule 1. General Provisions

329 IAC 11.5-1-1 Purpose

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-20; IC 36-9-30

Sec. 1. The purpose of this article is to implement the provisions of Public Law 170-2006 requiring the removal of mercury switches from end-of-life vehicles. (*Solid Waste Management Board; 329 IAC 11.5-1-1*)

329 IAC 11.5-1-2 Enforcement

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-20; IC 13-30; IC 36-9-30

Sec. 2. This article will be enforced through IC 13-30, as appropriate. (*Solid Waste Management Board; 329 IAC 11.5-1-2*)

329 IAC 11.5-1-3 Incorporation by reference

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-20; IC 36-9-30

Sec. 3. Unless specified in the incorporated by reference documents incorporated in this article, the version of documents referenced in the incorporated by reference documents is the latest version that is in effect on the date of the latest adoption of the incorporated by reference documents in this article. (*Solid Waste Management Board; 329 IAC 11.5-1-3*)

329 IAC 11.5-1-4 Records and standards for submitted information

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-20; IC 36-9-30

Sec. 4. (a) A motor vehicle recycler who removes mercury switches from end-of-life vehicles shall do the following:

(1) Report annually to the department in a form or format specified by the department.

(2) Submit the report by January 31 for the previous year.

(3) Include the following:

(A) The number of each of the following:

(i) Vehicles with mercury switches that were processed by the business in a calendar year from January 1 through December 31 of the same year.

(ii) mercury switches that have been removed during the calendar year from January 1 through December 31 of the same year.

(iii) mercury switches that have been returned for processing in the calendar year from January 1 through December 31 of the same year.

(iv) Removed mercury switches that remain on site as of December 31.

(v) ABS G-force sensors that have been removed during the calendar year from January 1 through December 31 of the same year.

(B) The approximate percentage of the vehicles processed by the motor vehicle recycler that have mercury switches during the reporting calendar year.

(b) The motor vehicle recycler who removes mercury switches from end-of-life vehicles shall record and retain at the business in an operating record any records required by this article.

(c) All records required by this article shall be retained by the motor vehicle recycler who removes mercury switches from end-of-life vehicles:

(1) for a period of three (3) years; or

(2) until the rule expires or is repealed;

whichever is less. (*Solid Waste Management Board; 329 IAC 11.5-1-4*)

329 IAC 11.5-1-5 Electronic submission of information

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-20; IC 36-9-30

Sec. 5. A motor vehicle recycler may submit electronically any information required by this article in a format acceptable to the commissioner.

(*Solid Waste Management Board; 329 IAC 11.5-1-5*)

329 IAC 11.5-1-6 Rule compliance

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-20; IC 36-9-30

Sec. 6. (a) A motor vehicle recycler who:

(1) removes mercury switches; and

(2) requests payment for those switches under 329 IAC 11.5-4-1:

may be subject to inspection by the department to verify that only mercury switches and ABS G-force sensors are being sent for processing.

(b) A motor vehicle recycler in Indiana or other person in Indiana who:

(1) intentionally crushes a motor vehicle; and

(2) transfers that vehicle to another person;

shall provide documentation that all mercury switches have been removed from the intentionally crushed motor vehicle and recycled. (*Solid Waste Management Board; 329 IAC 11.5-1-6*)

329 IAC 11.5-1-7 Previously damaged vehicles

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3; IC 13-20-17.7-7

Affected: IC 13-20-17.7-5; IC 36-9-30

Sec. 7. Notwithstanding IC 13-20-17.7-5(a), a motor vehicle recycler is not required to remove a mercury switch from a damaged motor vehicle that is so severely damaged when it is received by the motor vehicle recycler that the switch cannot be accessed using hand tools available to the motor vehicle recycler. However, if another person intentionally crushes the motor vehicle prior to sending it to a motor vehicle recycler, that person is a motor vehicle recycler as defined in IC 13-11-2-130.3 and must provide documentation to the person who receives the crushed vehicle that the mercury switches have been removed. (*Solid Waste Management Board; 329 IAC 11.5-1-7*)

Rule 2. Definitions

329 IAC 11.5-2-1 Definitions

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-11-2; IC 13-20; IC 36-9-30

Sec. 1. The definitions in IC 13-11-2 and this rule apply throughout this article. *(Solid Waste Management Board; 329 IAC 11.5-2-1)*

329 IAC 11.5-2-2 "ABS G-force sensor" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3; IC 13-20-17.7-7

Affected: IC 13-20-17.7; IC 36-9-30

Sec. 2. "ABS G-force sensor" means a device containing mercury switches that is installed in a motor vehicle as part of the anti-lock braking system and functions to detect deceleration. This definition includes only those devices that contain mercury. *(Solid Waste Management Board; 329 IAC 11.5-2-2)*

329 IAC 11.5-2-3 "Container" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-20; IC 36-9-30

Sec. 3. "Container" means the collection device provided to motor vehicle recyclers by the automobile manufacturers under the ELVS mercury minimization plan that complies with the universal waste rules at 329 IAC 3.1-16. *(Solid Waste Management Board; 329 IAC 11.5-2-3)*

329 IAC 11.5-2-4 "ELVS mercury minimization plan" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3; IC 13-20-17.7-7

Affected: IC 13-20-17.7; IC 36-9-30

Sec. 4. The "ELVS mercury minimization plan" means the Mercury Minimization Plan dated September 27, 2006 that was submitted on behalf of motor vehicle manufacturers by the End of Life Vehicle Solutions Corporation (ELVS) under IC 13-20-17.7-1 and approved by the commissioner under IC 13-20-17.7-4. *(Solid Waste Management Board; 329 IAC 11.5-2-4)*

329 IAC 11.5-2-5 "End of life vehicle" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-11-2-66.9; IC 13-20; IC 36-9-30

Sec. 5. "End of life vehicle" has the meaning set forth at IC 13-11-2-66.9. *(Solid Waste Management Board; 329 IAC 11.5-2-5)*

329 IAC 11.5-2-6 "Mercury switch" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-11-2-128.8; IC 13-20; IC 36-9-30

Sec. 6. "Mercury switch" has the meaning set forth in IC 13-11-2-128.8. *(Solid Waste Management Board; 329 IAC 11.5-2-6)*

329 IAC 11.5-2-7 "Motor vehicle recycler" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-11-2-130.3; IC 13-20; IC 36-9-30

Sec. 7. "Motor vehicle recycler" has the meaning set forth in IC 13-11-2-130.3. *(Solid Waste Management Board; 329 IAC 11.5-2-7)*

Rule 3. ABS G-Force Sensor Allowance

329 IAC 11.5-3-1 ABS G-force sensor allowance

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-20-17.7; IC 36-9-30

Sec. 1. ABS G-force sensors may be removed, collected, and sent for processing with mercury switches and payment requested under 329 IAC 11.5-5-1. (*Solid Waste Management Board; 329 IAC 11.5-3-1*)

Rule 4. Mercury Switch Removal, Storage, and Disposal Requirements

329 IAC 11.5-4-1 Mercury switch removal, storage, and disposal requirements

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-20-17.7; IC 36-9-30

Sec. 1. (a) Motor vehicle recyclers must remove and collect mercury switches and may collect ABS G-force sensors from end of life vehicles in accordance with the ELVS mercury minimization plan as required by IC 13-20-17.7-5(a).

(b) Any other person in Indiana who removes mercury switches or ABS G-force sensors from end of life vehicles must do so in accordance with this article.

(c) Mercury switches and ABS G-force sensors must be stored in the container provided under the ELVS mercury minimization plan.

(d) Each container must contain not more than four hundred fifty (450) mercury switches.

(e) A motor vehicle recycler who:

(1) uses the container provided under the ELVS mercury minimization plan to store and ship mercury switches, and

(2) follows the instructions provided with the container;

is considered to be in compliance with the universal waste rules in 329 IAC 3.1-16. (*Solid Waste Management Board; 329 IAC 11.5-4-1*)

Rule 5. Payment Procedure

329 IAC 11.5-5-1 Payment procedure

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 9-22-4; IC 13-20; IC 36-9-30

Sec. 1. (a) A motor vehicle recycler or any other person who removes mercury switches from end of life vehicles may submit a request to the department for reimbursement under this section. When requesting reimbursement, the following information must be submitted to the department:

(1) A list of the make, model, and year of each vehicle that had mercury switches or ABS G-force sensors removed.

(2) The number of mercury switches or ABS G-force sensors taken from that vehicle.

(3) The facility's salvage motor vehicle business license number issued by the Indiana bureau of motor vehicles.

(4) The number of:

(A) mercury switches; and

(B) ABS G-force sensors;

removed, collected, and transported to the mercury processor.

(b) A motor vehicle recycler or any other person who removes mercury switches from end of life vehicles and requests reimbursement must sign an affidavit as part of the submitted information stating the following:

(1) All mercury switches and ABS G-force sensors that were removed and sent for processing contained mercury.

(2) All information submitted is true and accurate.

(c) Based on the submitted information, the department will pay:
(1) three dollars (\$3) for each mercury switch; and
(2) five dollars (\$5) for each ABS G-force sensor;
to the extent the money is available from the state solid waste management fund.

(d) It is a violation of this article to submit a request for reimbursement for convenience switches and ABS switches that do not contain mercury. (*Solid Waste Management Board; 329 IAC 11.5-5-1*)

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